BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 18.08.2022
CORAM
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM
CRL.O.P(MD)No.14804 of 2022
and
Crl.M.P(MD)No.9634 of 2022

1.B.Kalifulla
2.Mohamed Ahsik ... Petitioners/Accused Nos.1 & 2

Vs.

1.The Inspector of Police,
Town North Police Station,
Dindigul ? 624 001.
(Cr.No.1243 of 2021) ... 1st
Respondent/Complainant

2.Arulanantha Peter ... 2nd Respondent/Defacto Complainant

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PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records relating to the F.I.R. in Crime No.1243 of 2021 on the file of the Town North Police Station, Dindigul and quash the same as illegal.

For Petitioners : Mr.M.Sheik Abdullah
For R1 : Mr.M.Sakthikumar
Government Advocate (Crl.side)

O R D E R

This petition is filed to quash the First Information Report in Crime No.1243 of 2021 on the file of the Town North Police Station, Dindigul.

2.The learned counsel for the petitioners submitted that the first petitioner is the practising Advocate at Dindigul and the second petitioner is the son of the first petitioner, who is practising medicine. The second respondent/defacto complainant, previously was working as an advocate clerk to the first petitioner. He is not an enrolled advocate clerk. Due to his illegal activities such as being a taunt for different departments and Court office and for arranging bogus sureties to be presented before the Subordinate Judiciary, the District Crime Branch registered a case against him and he was ordered to be behind the bar. The first petitioner has not engaged him as advocate clerk. Having wreck vengeance on the petitioners, he gave a false complaint against the petitioners as if they have received a sum of Rs.16 lakhs as assurance of providing job to the defacto complainant-s relatives in the Aavin Milk Society. But there is no evidence for giving a sum of Rs.16 lakhs in order to get job and further, the alleged cheque of State Bank of India belonged to one Philip Sarala for a sum of Rs.12,20,000/~ issued by the petitioners on 13.06.2021 is also false one. Therefore, he prays for quashing the said F.I.R.

3.The learned Government Advocate (Crl.side) appearing for the respondent police submitted that based on the complaint given by the second respondent, the case has been registered against the petitioners for the offences punishable under Sections 417 and 420 IPC and it is under investigation and before completing the investigation and finding out the truthfulness of the allegation, it is not proper to quash the complaint. Hence, he pleaded to dismiss the said petition.

4. I have considered the submission of the learned counsel appearing for the petitioners and the learned Government Advocate (criminal side) appearing for the respondent police.

5. A perusal of records shows that the first petitioner is a practising Advocate in Dindigul. The second respondent/ defacto complainant was working an advocate clerk under the first petitioner, which is not disputed. Now, on seeing the F.I.R., it is seen that the case has been registered in Crime No.1243 of 2022 for the offences punishable under Sections 417 and 420 of IPC. The allegation stated in the complaint is that the first petitioner assured to get a job for the son of the second respondent, namely, Arunpelix and his brother-s son Ligori Savarimuthu on payment of Rs.16 lakhs at Aavin Milk Society. Believing the words, on 15.08.2019, the second respondent/defacto complainant gave a sum of Rs.16 lakhs in the first petitioner-s office in the presence of the second petitioner. On receiving the said amount, they assured to give appointment order to him, but they failed to do so. The second respondent/defacto complainant compelled the petitioners to get the appointment order or return the money. On the compulsion of the second respondent, the first petitioner gave a cheque of State Bank of India in the name of one Pilip Sarala, Account No.30826617273, Cheque No.500101 for a sum of Rs.12,25,000/~ and instructed him for

collecting it on 30.06.2021. The said cheque was forged one. Since the petitioners had not obtained any job and not repaied the said amount, the second respondent gave a complaint before the respondent police and the case has been registered. The allegation stated in the First Information Report made a prima facie offence. Therefore, investigation has to be conducted to find out the truth in this case. Even though the petitioners- counsel stated that the defacto complainant is a bad man, case cannot be thrown out without finding out the truth in the allegation. Therefore, at this stage, it is not proper to quash the complaint.

6.Therefore, the police will proceed and complete the investigation fairly as expeditiously as possible and submit the required final report to the learned Jurisdictional Judicial Magistrate, who shall act in accordance with law. Further, the First Information Report cannot be quashed, since it does not satisfy the parameter laid by the Hon-ble Supreme Court in the case of State of Haryana vs. Ch.BhajanLal (AIR 1992 SC 604). Under such circumstances, quashing of the First Information Report does not arise. This Court finds no merits in this case.

7.In view of the above, these Criminal Original Petitions are dismissed. Consequently, connected miscellaneous petition is closed.

18.08.2022
Internet:Yes./No
Index:Yes/no
vsd

V.SIVAGNANAM, J.

vsd

To

1.The Inspector of Police,
Town North Police Station,
Dindigul ? 624 001.
(Cr.No.1243 of 2021)

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER IN
CRL.O.P(MD)No.14804 of 2022
and

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